

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEXTEC APPLICATIONS, INC., a Georgia corporation,

Plaintiff,

v.

BROOKWOOD COMPANIES, INC., a Delaware corporation,

Defendant.

ECF CASE

Case No. 07CV6901 (RJH)(THK)

NOTICE OF MOTION
TO STRIKE THE DECLARATION OF FRANK MONTIE

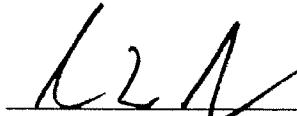
PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of Plaintiff's Motion to Strike the Declaration of Frank Montie and all prior pleadings and proceedings herein, Plaintiff Nextec Application Inc., by their attorneys Sheppard Mullin Richter & Hampton LLP, will move this Court, before the Honorable Richard J. Holwell, United States District Judge, United States District Court for the Southern District of New York, at the United States Court House, 500 Pearl Street, New York, New York, for an Order, pursuant to Federal Rule of Civil Procedure 56(e) and Federal Rules of Evidence 602, 701-702, 801, and 1002, striking the Declaration of Frank Montie, and for such other and further relief as the Court

may deem just and proper. A proposed form of order is attached hereto as Exhibit 1.

Dated: August 15, 2008

SHEPPARD MULLIN RICHTER & HAMPTON LLP

By:


AMAR L. THAKUR (admitted *pro hac vice*)
DANIEL N. YANNUZZI (admitted *pro hac vice*)
JON E. MAKI (admitted *pro hac vice*)
MICHAEL MURPHY (admitted *pro hac vice*)
12275 El Camino Real, Suite 200
San Diego, CA 92130
Telephone: (858) 720-8900
Facsimile: (858) 509-3691
E-mail: athakur@sheppardmullin.com
jmaki@sheppardmullin.com
mmurphy@sheppardmullin.com

and

Charles A. LeGrand (CL-5320)

30 Rockefeller Plaza, Suite 2400
New York, New York 10112
(212) 332-3800 (phone)
(212) 332-3888 (fax)

Attorneys for Plaintiff
NEXTEC APPLICATIONS, INC.